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21 **IN THE UNITED STATES DISTRICT COURT
22 FOR THE EASTERN DISTRICT OF WASHINGTON**

23 UNITED STATES OF AMERICA,
24 Plaintiff,
25 v.
12 THOMAS ANDREW WEBSTER,
13 Defendant.

2:23-CR-00135-MKD-1

**DEFENDANT THOMAS ANDREW
WEBSTER'S RESPONSE TO THE
GOVERNMENT'S SENTENCING
MEMORANDUM**

18 Dr. THOMAS ANDREW WEBSTER responds to the Government's
19 sentencing memorandum (ECF No. 23) as follows:

20 **I. Government's Recommendation**

21 The Government recommends a sentence that includes a term
22 of imprisonment of thirty-seven months; a term supervised
23 release of three years; restitution in the amount of
24 \$839,566.44; a fine in the amount of \$150,000.00; and a special
25 assessment in the amount of \$100.00. (Gov't's Sent'g Mem. 5,
26 ECF No. 23.) Dr. Webster agrees with the Government's
27 recommendation regarding restitution, supervised release, and
28 the special assessment, but submits, for the reasons stated in
29 his sentencing memorandum (ECF No. 24), that a non-custodial

1 sentence, or a sentence substantially below the sentencing
2 guidelines range, would be "sufficient, but not greater than
3 necessary to comply with the purposes set forth in [18 U.S.C. §
4 3553(a) (2)]" (18 U.S.C. § 3553(a)), and that a fine is
5 unwarranted.

6 **II. Collateral Consequences of Dr. Webster's Conviction and**
7 **Sentence**

8 Dr. Webster respectfully clarifies that his request for
9 leniency at sentencing is not based in any part on the notion
10 that he has been "'punished enough' though collateral
11 consequences" (Gov't's Sent. Mem. 5, ECF No. 23), nor that he
12 deserves such leniency because he is somehow a superior human
13 to any other criminal defendant who is not a medical doctor or
14 military officer. His position, rather, is that his entire
15 life's accomplishments related to his education and his
16 military service will now be mooted with the forthcoming,
17 almost-inevitable loss of his ability to practice medicine and
18 his separation from the military. These consequences, although
19 the direct results of Dr. Webster's knowing and willful
20 criminal conduct, remain additional, collateral punishments
21 that he will suffer, but that other non-similarly situated
22 criminal defendants would not, such as a non-physician owner of
23 a telemedicine company or a telemedicine marketer convicted in
24 a similar health care fraud conspiracy. Therefore, the Court
25 is authorized to consider these collateral consequences
26 pursuant to the sentencing factors regarding "just punishment"
27 (18 U.S.C. § 3553(a) (2) (A)) and the need "to protect the public
28 from further crimes of the defendant" (18 U.S.C. § 3553(a) (2)
29 (C)).

1 **III. Fine**

2 The probation officer estimates Dr. Webster's net worth to
 3 be \$220,719.47. PSR, ¶ 87. However, Dr. Webster has agreed to
 4 forfeiture and restitution judgments in the amount of
 5 \$839,566.44 (Plea Agreement, ¶¶ 15, 16); the Government has
 6 seized the majority of his assets pursuant to the Preliminary
 7 Order of Forfeiture (ECF No. 17); and his remaining assets,
 8 though they have value, have little or no equity (or even
 9 negative equity) (see PSR, ¶ 87). Furthermore, although Dr.
 10 Webster is confident that the Government will make a good-faith
 11 effort to persuade the Department of Justice's Money Laundering
 12 and Asset-Forfeiture Recovery Section ("MLARS") to apply the
 13 value of the forfeited assets toward the restitution judgment,
 14 the Government, admittedly, can make no assurance to this Court
 15 (Gov't's Sent'g Mem. 15, ECF No. 23) (as it could not make any
 16 assurances to Dr. Webster during plea negotiations in this
 17 case) that MLARS will agree.

18 Dr. Webster respectfully submits, based on his current
 19 inability to pay a fine, his dismal prospects for future
 20 earning capacity as a result of a felony conviction, and a
 21 restitution judgment for which he may remain responsible in
 22 addition to the forfeiture judgment, a fine is not warranted.
 23 See U.S.S.G. § 5E1.2(d) (2), (3).

24 Date: July 31, 2024

25 Respectfully submitted,

26 s/Joshua Sabert Lowther
 27 Joshua Sabert Lowther, Esq.

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1 **Certificate of Service**

2 I hereby certify that on July 31, 2024, I electronically
3 filed DEFENDANT THOMAS ANDREW WEBSTER'S RESPONSE TO THE
4 GOVERNMENT'S SENTENCING MEMORANDUM with the Clerk of the United
5 States District Court for the Eastern District of Washington by
6 way of the CM/ECF system, which automatically will serve this
7 document on the attorneys of record for the parties in this
8 case by electronic mail.

9 Date: July 31, 2024

10 Respectfully submitted,

11 **s/Joshua Sabert Lowther**

12 Joshua Sabert Lowther, Esq.